OGIS Mediation Request – FOIA Access Issue with MSPB

Dear OGIS Staff,  
  
I am writing to respectfully request your assistance with a concerning FOIA issue involving the U.S. Merit Systems Protection Board (MSPB). I submitted a FOIA request in relation to my pending MSPB and Federal Circuit appeal proceedings. Until recently, I was able to monitor the request through MSPB’s online FOIA portal.  
  
However, I recently discovered that my request has been marked “Closed” in the portal—despite the fact that I have not received any final determination letter, records, explanation of the closure, or notification of my appeal rights. In addition, I am now unable to access my account at all. Attempts to log in return error messages, making it impossible to verify the request status or obtain documentation.  
  
To summarize:  
  
- No written determination has been received;  
- No explanation of the closure or exemptions applied has been provided;  
- No appeal rights have been communicated; and  
- I have been locked out of the MSPB FOIA portal entirely.  
  
This raises concern under several provisions of the Freedom of Information Act (FOIA), including:  
  
- 5 U.S.C. § 552(a)(6)(A): requiring agencies to provide a written determination and notification of appeal rights within the statutory time frame.  
- 5 U.S.C. § 552(a)(6)(B): governing extensions and response obligations where unusual circumstances apply.  
- 5 U.S.C. § 552(a)(6)(C): recognizing constructive denial where an agency fails to comply with the statutory time limits.  
- 5 C.F.R. § 1204.81 et seq.: MSPB’s own FOIA implementing regulations, which require notice of determinations and explanation of withholdings.  
- OGIS Best Practices: including the duty of agencies to provide clear closure notices and maintain accessibility for requesters.  
  
Given the timing and lack of any formal notice, this may constitute a constructive denial. The request pertains to records relevant to pending legal matters, and I am seeking a fair and timely resolution.  
  
I would greatly appreciate OGIS’s assistance in facilitating clarification from MSPB, determining whether the request was properly closed, and ensuring that I am provided with any responsive records or an opportunity to appeal.  
  
Please let me know if you need any additional information or documentation.  
  
Sincerely,  
  
[Full Name]   
[Email address]   
[Phone number]   
FOIA Tracking Number: [Insert if available]   
Date of Original Request: [Insert if known]